

COMMONWEALTH OF KENTUCKY  
ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER

APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM  
AND / OR WATER QUALITY CERTIFICATION

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. If the project involves work in a stream, such as bank stabilization, dredging or relocation, you will also need to obtain a 401 Water Quality Certification (WQC) from the Division of Water. This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact the WQC section at 502/564-3410.

If the project will disturb one or more acres of land, or if the project is part of a larger common plan of development or sale that ultimately will disturb one or more acres, you will also need to complete a Notice of Intent for general permit coverage for storm water discharges associated with construction activities (NOI-SWCA). You may find the forms for Kentucky Pollution Discharge Elimination System (KPDES) at [http://www.water.ky.gov/homepage/repository/kpdes\\_permit\\_aps.htm](http://www.water.ky.gov/homepage/repository/kpdes_permit_aps.htm) or <https://dep.gateway.ky.gov/eForms/default.aspx?FormID=7>. Return forms to the Floodplain Management Section of the KDOW. This general permit will require you to create and implement an erosion control plan for the project.

1. OWNER: Matthew Jackson 20206A  
Give name of person(s), company, governmental unit, or other owner of proposed project.  
MAILING ADDRESS: 4545 County Line Rd  
Melber Ky. 42069  
TELEPHONE #: (270) 705-6498 EMAIL: \_\_\_\_\_
2. AGENT: \_\_\_\_\_  
Give name of person(s) submitting application, if other than owner.  
ADDRESS: \_\_\_\_\_  
TELEPHONE #: \_\_\_\_\_ EMAIL: \_\_\_\_\_
3. ENGINEER: \_\_\_\_\_ P.E. NUMBER: \_\_\_\_\_  
Contact Division of Water if waiver can be granted.  
TELEPHONE #: \_\_\_\_\_ EMAIL: \_\_\_\_\_
4. DESCRIPTION OF CONSTRUCTION: Levee to be built to cant construct a  
waterfowl management area  
Describe the type and purpose of construction and describe stream/wetland impact
5. COUNTY: Mercer NEAREST COMMUNITY: Melber
6. USGS QUAD NAME \_\_\_\_\_ LATITUDE/LONGITUDE: \_\_\_\_\_
7. STREAM NAME: Maryfield Creek WATERSHED SIZE (in acres): \_\_\_\_\_
8. LINEAR FEET OF STREAM IMPACTED AND/OR ACRES OF WETLAND IMPACT: \_\_\_\_\_
9. DIRECTIONS TO SITE: From paducah go south on highway 45 just outside Lone Oak  
take right on 339 go approximately 7.5 miles come to 4way stop at Melber  
go Right (west) approximately 4.5 miles to project site on Right

10. IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE? ☐ Yes ☒ No If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. DATE: \_\_\_\_\_

11. ESTIMATED BEGIN CONSTRUCTION DATE: June 15-2010

12. ESTIMATED END CONSTRUCTION DATE: July 1 2010

13. HAS AN APPLICATION BEEN SUBMITTED TO THE US ARMY, CORPS of ENGINEERS? ☒ Yes ☐ No

14. AN APPLICANT FOR A PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM MUST ADDRESS PUBLIC NOTICE:

(a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:

\_\_\_\_\_ Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)

☒ Adjacent property owner(s) affidavits (Contact Division of Water for requirements.)

(b) \_\_\_\_\_ I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:

\_\_\_\_\_ Contact Division of Water for requirements.

**\* PUBLIC NOTICE FOR 401 WATER QUALITY CERTIFICATIONS IS GOVERNED BY 401 KAR 9:010**

15. I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:

\_\_\_\_\_ Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.

16. LIST OF ATTACHMENTS: \_\_\_\_\_

\_\_\_\_\_ List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.

17. I, Matthew Jackson (owner) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).

18. REMARKS: \_\_\_\_\_

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: \_\_\_\_\_

Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)

DATE: 2-2-10

SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR: \_\_\_\_\_

Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.

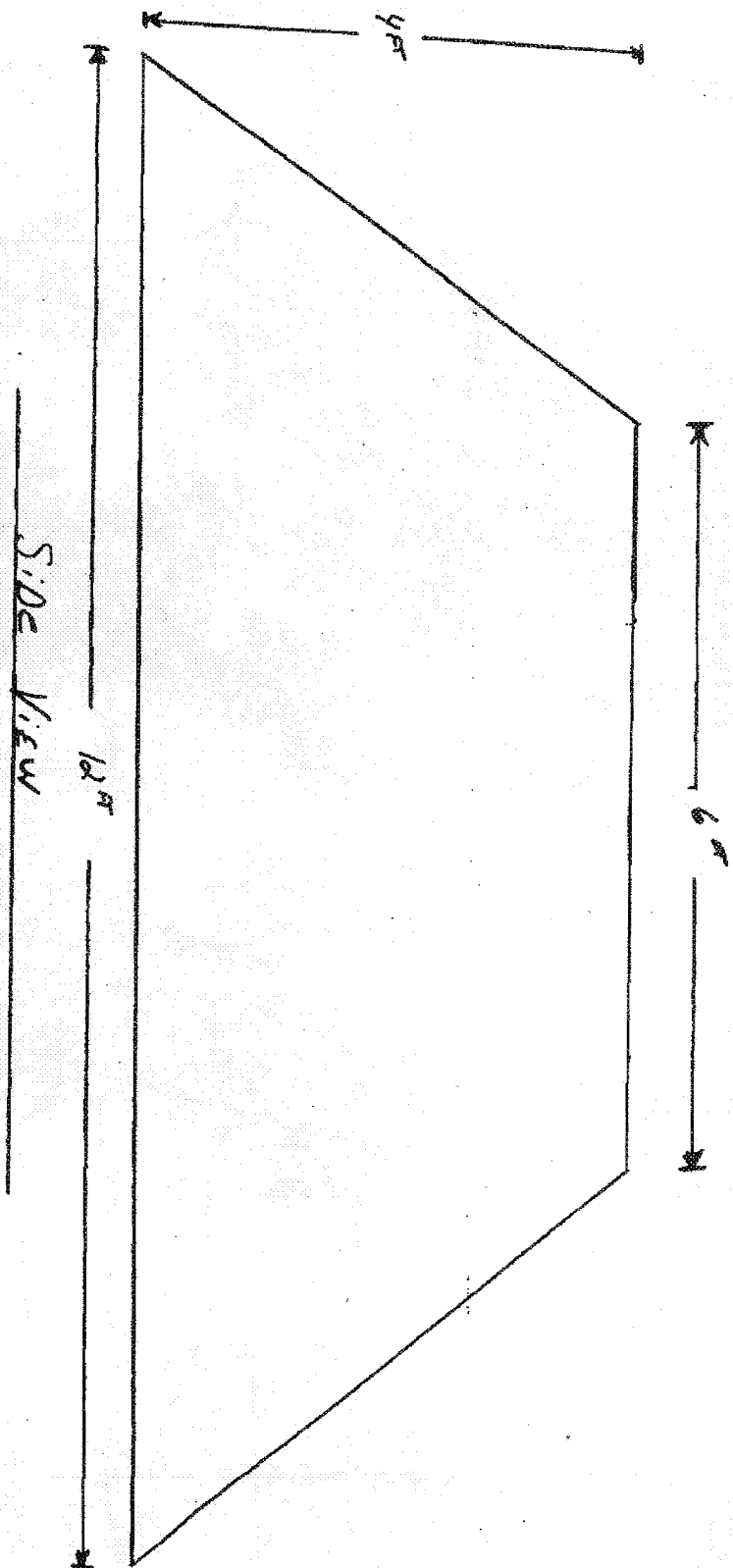
DATE: \_\_\_\_\_

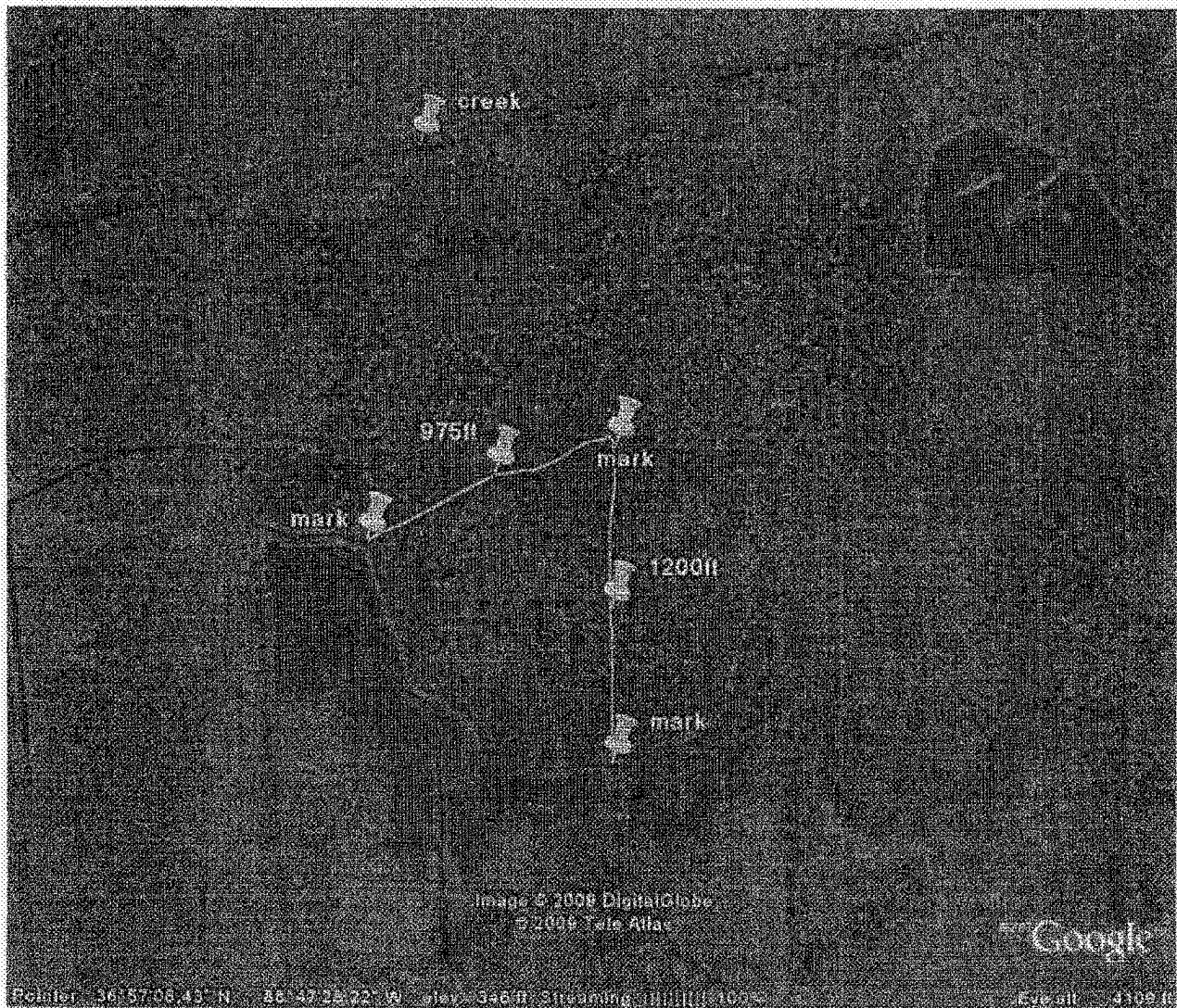
SUBMIT APPLICATION AND ATTACHMENTS TO:

Floodplain Management Section  
Division of Water  
200 Fair Oaks Lane  
Frankfort, KY 40601



Levee Cross Section





## MITIGATION PLAN

Initiation of construction of the project and mitigation sites shall be accomplished simultaneously/within the same year. (1)

I. Mitigation Agreement: To offset direct impacts to 0.60 acres of wooded wetlands, the following conditions shall be adhered to:

A. Forested wetland conditions (i.e. temporarily to seasonally inundated forested wetlands) must be established on 1.8 acres of prior converted farmland. The entire 1.8 acres shall be preserved as mitigation. The mitigation site is located in McCracken County, Kentucky, at approximate latitude 36.952 and longitude -88.799 as shown on the attached map. Stipulations for establishing the wetland mitigation area are as follows: (2,4,5,6)

1. A flooding regime shall be established on the mitigation site, to promote generation and growth of hydrophytic vegetation. Blocking drains and/or reestablishing swales that were filled to convert the land to agriculture may accomplish this.
2. The mitigation site will be planted in a mixture of tree species typifying native bottomland hardwoods. Seedlings planted on the mitigation site shall consist of such species as *Quercus phellos* (willow oak), *Quercus nigra*, (water oak), and *Quercus michauxii* (swamp chestnut oak), *Quercus palustris* (pin oak), *Quercus shumardii* (shumard oak), and *Quercus nuttallii* (nuttall oak) Overcup oak and cherrybark oak.
3. To reforest the mitigation site, seedlings will be planted on a minimum spacing of 12' X 12' (302 trees per acre).
4. The perimeter of the mitigation site will be clearly marked with weatherproof signs (i.e., metal or plastic) containing the applicant's name, address, permit number, and the phrase "Mitigation Site".

B. The mitigation site will be established (i.e., trees planted, signs in place etc.) by the completion of the permitted activity.

C. All costs of restoration and management of the entire mitigation area will be the responsibility of the applicant/permittee. (7)

D. Written notification shall be submitted to the Corps indicating the date that hydrology has been established and planting has been completed.

E. There shall be no agricultural or industrial activity undertaken or allowed on the mitigation property; nor shall any right of passage across or upon the protected property be allowed or granted if that right of passage is used in conjunction with agricultural or industrial activity. The mitigation area will be marked by fence posts and signs. (3)

F. Once the mitigation area has been successfully established, there shall be no filling, excavation, dredging, mining, or drilling. There will be no removal of topsoil, sand, gravel, rock, minerals or other materials, nor any dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the mitigation land in any manner. (3)



**II. Monitoring Report:** A monitoring report performed by a qualified natural resource specialist shall be supplied to the Memphis District's Regulatory Branch to ensure success of the mitigation site. Success criteria shall be identified by the documentation of hydrology on the site and survival of seedlings planted. Monitoring of soils is not necessary since the mitigation site is located within existing hydric soils. Reports shall be submitted to the Corps by October 15<sup>th</sup> of each year that a report is required. Report format shall follow the attached format.

**A. A 1/10<sup>th</sup>-acre monitoring plot shall be established on each acre by installing a permanent stake marking the center of the plot. Species identification and number per acre shall be collected on each monitoring plot and submitted to the Corps by October 15 for the required time period. (8,9,10)**

1. First three years following planting: A monitoring report shall be submitted to the Corps which verifies the presence of wetland hydrology by using the standards established in the 1987 Corps of Engineers Wetlands Delineation Manual. Failure to achieve a verifiable presence of hydrology or permanent inundation shall require consultation with the Corps of Engineers to develop corrective measures to establish long-term wetland hydrology which meets the goal of a temporarily to seasonally inundated wetland forest. The monitoring report shall also identify the average density of specified seedlings per acre. A minimum of 218 oak seedlings per acre shall be present or replanting shall occur to achieve success of 218 seedlings per acre.

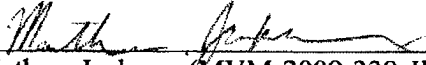
2. Fourth year following planting: A monitoring report shall be submitted to the Corps verifying the continued presence of wetland hydrology by using the standards established in the 1987 Corps of Engineers Wetland Delineation Manual. Failure to achieve a verifiable presence of hydrology or permanent inundation shall require consultation with the Corps of Engineers to develop corrective measures to establish required hydrology or relocation of the mitigation site to a more suitable location. The monitoring report shall also identify the average density of specified seedlings per acre. A minimum of 150 oak seedlings per acre shall be present or replanting shall occur to achieve success of 150 seedlings per acre.

3. Fifth year following planting: A monitoring report shall be submitted to the Corps which verifies the well established presence of wetland hydrology by using the standards established in the 1987 Corps of Engineer Wetland Delineation Manual. Failure to achieve a verifiable presence of hydrology or permanent inundation by the fifth year shall constitute failure of the mitigation site. Should failure occur, relocation and development of a new mitigation site approved by the Corps shall be required and the five-year monitoring cycle shall begin anew. If hydrology is well established, the monitoring report shall also identify the average density of specified seedlings per acre. A minimum of 125 seedlings per acre shall be present or replanting shall occur to achieve success of 125 seedlings per acre.

4. Tenth year following monitoring: A monitoring report shall be submitted to the Corps which verifies the well established presence of wetland hydrology and vegetation. This may be accomplished by photo-documentation or by other means which accurately verifies the continued success of the mitigation site.

**IV. The permit, with associated special conditions, shall be recorded within 45 days from the date of the permit in the Miscellaneous Document Book, with the Register of Deeds, or with another appropriate official charged with the responsibility of maintaining records of title to and interest in real property. A certified copy of the record shall be furnished to this office within 30 days of recording.**

**V. Your responsibility to complete the required compensatory mitigation as set forth in the Special Conditions of the permit will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers. Not meeting these requirements constitutes grounds for permit revocation and/or enforcement action. (11)**

  
\_\_\_\_\_  
Mathew Jackson (MVM-2009-339-JRC)  
4545 County Line Road  
Melber, Kentucky 42069

2/3/10  
\_\_\_\_\_  
Date



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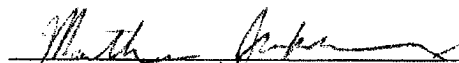
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